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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 21st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 22 August 1990, at 10 a.m.

Chairman: Mr. TÜRK

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The meeting was called to order at 10.35 a.m.

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES (agenda item 10) (E/CN.4/Sub.2/1990/20 and Add.1, 21, 22, 23, 25, 26 and Add.1 and 2, 27, 29, 33 and Add.1; E/CN.4/Sub.2/1990/NGO/1, 4 and 18; E/CN.4/1990/14, 23, 27, 28, 29 and 30/Rev.1)

INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY, JURORS AND ASSESSORS AND THE INDEPENDENCE OF LAWYERS (agenda item 11) (E/CN.4/Sub.2/1990/35; E/CN.4/Sub.2/1988/20/Add.1 and Add.1/Corr.1)

1. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 10, noted that the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other international and regional instruments laid down very precise standards concerning the treatment of detainees and the basic principles to be respected in the administration of justice. It was incumbent upon the Commission on Human Rights and the Sub-Commission to monitor the situation in various countries where those fundamental rights might be denied or violated. In that respect, the Sub-Commission played an important role in the United Nations system by drawing attention to abuses that ought to be considered by the Commission and the General Assembly. It also took the initiative in the preparation of rules relating to specific issues, such as the death penalty or the principles to be observed for the protection of detainees or prisoners.

2. Members of the Sub-Commission would have his full support in examining, at the present session, problems of primary importance such as the prevention of hostage-taking, respect for basic rights in the administration of justice, the protection of staff members of the United Nations and the application of standards for detained juveniles, on the basis of information supplied by Governments, the specialized agencies and non-governmental organizations. Moreover, he was pleased to note that the Working Group on Detention had begun to prepare a draft declaration on the protection of victims of enforced or involuntary disappearances.

3. By the sustained attention which it paid to the rights of detainees, the Sub-Commission was also ensuring respect for the principle set forth in article 9 of the Universal Declaration of Human Rights, namely that "No one shall be subjected to arbitrary arrest, detention or exile".

4. Regarding the elaboration of new standards for the rights of detainees, he noted that the eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was due to begin in a few days' time at Havana, Cuba. The participants in that meeting would study, and probably adopt, a number of draft instruments relevant to the Sub-Commission's work. The Sub-Commission, in turn, would consider at its subsequent sessions the action taken to apply those instruments.

5. The Sub-Commission also had to consider the important problem of the practice of administrative detention. Mr. Joinet himself would introduce his updated report (E/CN.4/Sub.2/1990/29) and his proposals on the matter.

6. The effectiveness of the measures taken by the United Nations and the specialized agencies to promote peace and development and to provide assistance and the necessary humanitarian aid in various parts of the world depended to a

large extent on the devotion and the abilities of their staff members. The Charter required the Organization's staff to remain impartial and objective in the performance of their duties, but if they were to be able to do their work properly it was also necessary that their fundamental rights and their privileges and immunities be respected in all circumstances. There was, however, an alarming number of reports of violations of the privileges and immunities or fundamental rights of staff members, experts and even members of their families. The Secretary-General was intensifying his efforts to ensure that those rights were protected in all countries. Some of the authorities implicated had made an encouraging response, but in most cases, unfortunately, the situation remained unchanged. The problem was one of great concern to the Sub-Commission, which had entrusted Mrs. Bautista with the preparation of a report on the subject (E/CN.4/Sub.2/1990/30). The case of Mr. Mazilu, Special Rapporteur for human rights and youth, had made a particularly strong impression on the members of the Sub-Commission, who had before them the report which Mr. Mazilu had prepared under agenda item 17 (E/CN.4/Sub.2/1990/45).

7. The Sub-Commission would also be taking up the question of human rights and states of emergency, on which Mr. Despouy would submit a working paper (E/CN.4/Sub.2/1990/33 and Add.1 and 2).

8. Finally, attention should be drawn to a new issue on the agenda - the right to a fair trial. Mr. Chernichenko and Mr. Treat had been entrusted with the task of drawing up a report on the international standards defining that right (E/CN.4/Sub.2/1990/34).

9. Noting that the Sub-Commission had decided to consider agenda items 10 and 11 together, he introduced item 11 and reminded members that, having entrusted Mr. Singhvi in 1979 with the preparation of a report on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, the Sub-Commission has since then considered various aspects of the question.

10. At its forty-first session, the Sub-Commission had invited Mr. Joinet to prepare a working paper on means in the area of monitoring by which the Sub-Commission could assist in ensuring respect for the independence of the judiciary and the protection of practising lawyers. Mr. Joinet himself would introduce that document (E/CN.4/Sub.2/1990/35). It should be borne in mind that the eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders would, for its part, consider the draft fundamental principles applicable in the matter.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6, 10, 19 and 20; E/CN.4/1990/3, 24, 25, 26, 27, 45 and Add.1, 52 and 55; A/44/620) (continued)

11. Mr. ARNOLD (World Conference on Religion and Peace) noted that, since the forty-sixth session of the Commission on Human Rights, at which the situation in Myanmar (still known by the name of Burma) had been thoroughly considered, some important developments worthy of the Sub-Commission's attention, including the elections of 27 May 1990, had taken place.

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12. At those elections the opposition party, namely the National League for Democracy (NLD), had won more than 80 per cent of the seats against only 3 per cent for the party supported by the army. However, three months had passed without the ruling military Government - the State Law and Order Restoration Council (SLORC) - having taken any steps to arrange for the transfer of power to the elected representatives of the people. Furthermore, as the observer for the International Commission of Jurists had pointed out, SLORC's requirement that the constituent assembly be approved by it made the drawing-up of a constitution a mere exercise in window-dressing. SLORC'S refusal to hand over power deprived the present régime of any internal legitimacy. As for its external legitimacy, it should be noted that the international community's practice of recognizing States and not Governments did not mean that it conferred any legitimacy on the military régime in Myanmar. It was also noteworthy that the victory of the opposition party had not made SLORC any more inclined to release political prisoners.

13. It thus seemed that SLORC was seizing every opportunity to play for time in order to remain in power. A feeling of frustration might prompt the population to resort to violence, as had happened during the recent clashes which had cost the lives of a large number of people, not to mention the even more serious ones which had occurred in 1988. It was incumbent upon the Tatmatan, as a people's army, to comply with the will of the people, which in the present case meant handing over the administration of the country to the elected representatives and then working with the civilian Government for an honourable and lasting solution to the civil war.

14. In order to put an end to that war, which had already lasted for 42 years, the different ethnic groups under the umbrella of the Democratic Alliance of Burma (DAB) had called for a cease-fire and for negotiations on the constitution of a federation, along the lines of the 1947 Panlong Agreements. SLORC, however, categorically refused to negotiate with an "armed insurgent organization". Thus no political solution could be found to the conflict as long as the military remained in power. The army, which enjoyed the economic and logistical support of neighbouring countries such as Thailand, had engaged during the current rainy season in an unprecedented offensive against the Kachins, and an increasing number of persons were trying to flee the country; in Thailand there were currently some 50,000 refugees and in China about 5,000. It was distressing to note that, faced with such a massive arrival of refugees, the Thai authorities had turned back 1,000 persons, who had thus found themselves exposed to maltreatment by the army.

15. The World Conference on Religion and Peace therefore invited the Sub-Commission to make its concern known to the appropriate bodies. The Conference wished, too, to remind SLORC that it had a duty, as an organ of the people's army, to comply with the will of the people and to entrust the government of the nation to the representatives of NLD elected by the people. It also appealed to the international community to continue to withhold aid from Myanmar until civilians had returned to power and to apply whatever political and economic sanctions might induce SLORC to step down. It also requested Thailand to display more hospitality by accepting all refugees that sought asylum there and, finally, recommended the people of Myanmar to remain firm in the present difficult times and to use every means within its power, except violence, to secure respect for its political aspirations.

16. Mr. FERNANDO (International Educational Development) said that the statement he was about to make had been approved by the following non-governmental organizations: Friends of the Earth International, the International Law Association, the International Commission of Health Professionals for Health and Human Rights, the International Indian Treaty Council, the International Abolitionist Federation, the Latin American Federation of Associations of Relatives of Disappeared Detainees, the Grand Council of the Crees, Human Rights in Sri Lanka, Human Rights Internet, International Educational Development, the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities, the International Movement against Discrimination and Racism, Liberation, the International League for the Rights and Liberation of Peoples, the Movement against Racism and for Friendship among Peoples, the International Fellowship of Reconciliation, Disabled Peoples' International and Pax Christi International.

17. Sri Lanka continued to be the scene of armed conflicts. In recent months the Sri Lankan Government, wishing to overcome the resistance of the Liberation Tigers of Tamil Eelam, had ordered the bombardment of the Tamil civilian population. Hundreds of Tamils had thus disappeared in the areas controlled by the army, which had also engaged in arbitrary executions of Tamil, Sinhalese and Muslim civilians. In addition, some Tamil villages had been forcibly evacuated in pursuance of the Government's plan to resettle Tamils in refugee camps on the Jaffna Peninsula.

18. He strongly urged the Government of Sri Lanka to give up that plan. Urgent measures must be taken to put an end to the gross violations of human rights in Sri Lanka and enable the Tamil people to exercise its right of self-determination. He appealed to all parties concerned to authorize the International Committee of the Red Cross and other similar organizations to provide generous assistance in accordance with the rules of humanitarian law applicable in cases of armed conflict.

19. Mrs. PARKER (International Educational Development) said that the statement which she was about to make had been approved by the following non-governmental organizations: the International Commission of Jurists, the International Association of Educators for World Peace, the Four Directions Council, the International Indian Treaty Council, Habitat International Coalition, Human Rights Advocates, International Educational Development, the International Organization for the Elimination of All Forms of Racial Discrimination, the International League for the Rights and Liberation of Peoples, the Movement against Racism and for Friendship among Peoples, the International Fellowship of Reconciliation, the National Aboriginal and Islander Legal Services Secretariat, and Disabled Peoples' International.

20. She drew the Sub-Commission's attention to the situation in East Timor, which had been invaded 15 years previously by Indonesian armed forces. Despite the resolution unanimously adopted by the Security Council shortly after the invasion, the Indonesian army had never withdrawn and the question of East Timor had ever since then been on the agenda of the General Assembly and the Security Council. However, the speed with which the United Nations had responded to the invasion of Kuwait by Iraq showed that the international community could not accept such invasions as a fait accompli.

21. She therefore appealed to members of the Sub-Commission to encourage any specific measures designed to permit the people of East Timor to exercise its right of self-determination.

22. She also invited members to consider the situation in Pakistan, where the ousting of the Prime Minister, Mrs. Benazir Bhutto, who had won the elections in 1988, constituted a threat to the future of democracy in that country. The military seemed to have renewed their ascendancy at a time when the Pakistani people was barely recovering from a long period of military dictatorship. The international community would be well advised to appeal for the restoration of democracy so as to prevent the establishment of a new military régime and protect certain groups of the Pakistani population, particularly women, whose few rights the new régime was reported to have the intention of restricting, and the Muslim Ahmadi community. The fate of the latter, whose condition had slightly improved during the country's brief return to democracy, was once again in the balance as a result of Mrs. Benazir Bhutto's departure and of the incitements to violence emanating from the leaders of certain anti-Ahmadi sects. The result might be a massive exodus of the Ahmadi population of 4 million people.

23. Finally, she drew the Sub-Commission's attention to the situation in Myanmar, where the peoples' desire to bring to power the National League for Democracy (NLD), shown in the elections held on 27 May 1990, had still not been respected. Meanwhile, no solution had yet been found to calm the inter-ethnic tensions that had led to a civil war in which human rights had often been violated. The NLD leaders had indicated that they were not insensitive to the concerns of the various ethnic groups, and their victory should have held out hopes of a peaceful solution. However, the military régime in power continued to flout the aspirations of the minorities and to organize vast operations against their armed movements, particularly that of the Karens.

24. Although Myanmar was one of the few countries which had not yet ratified the Geneva Conventions of 1949, the Government and the armed forces of the minorities were nevertheless alike bound to respect the rules of humanitarian law laid down by the International Court of Justice in its decision of 27 June 1986. The international community should endeavour to induce the parties to respect their obligations and should demand the restoration of democracy in Myanmar.

25. Mrs. TUJ (International Indian Treaty Council) said that the Sub-Commission must continue to consider the particular cases of countries in respect of which the Commission on Human Rights and the Sub-Commission itself had adopted resolutions and must not abandon the victims of violations of human rights and fundamental freedoms.

26. Referring first of all to the situation of the Hopi people, she read out a message from one of their representatives in which he stated that the Hopis had been oppressed ever since the United States Government had invaded their ancestral lands and begun to control their lives. Ignoring their protests and disregarding their sovereignty, the United States Government was subjecting their children to a process of assimilation which was causing them to lose their Hopi identity. The Hopis were therefore asking the United Nations to secure recognition of their right to live as an independent people and to contribute to their well-being by helping them to obtain satisfaction for their demands.

27. With regard to East Timor, she appealed to the Indonesian Government to cease occupying the territory and to comply with Security Council resolutions 384 and 389.

28. As far as Honduras was concerned, she noted that, after the countless violations of human rights in the 1980s, the first months of 1990 showed that the situation was continuing to deteriorate.

29. In El Salvador, too, serious and systematic violations continued to occur. It was to be hoped that the parties to the conflict would succeed in attaining the initial objective of the negotiations by drawing up and then implementing the agreements needed to put an end to all acts contrary to the rights of the civilian population.

30. Finally, in Guatemala, after five years of civilian government, that Government's responsibility, as well as that of the army, were clearly apparent in violations of human rights. According to various sources, on average 24 persons were murdered every day, and on 27 July the Attorney for Human Rights appointed by the Government had stated that between January and June 1990 he had received 67 complaints denouncing the alleged participation of the armed forces in murders and enforced disappearances. The victims of the repression were persons opposed to the militarization of the country and members of humanitarian, grass-roots and trade union organizations, as well as members of student bodies and indigenous organizations. However, the great majority of sectors in Guatemala considered the negotiations initiated at Oslo in March 1990 between the international reconciliation commission and the Guatemalan national revolutionary body to be a step forward, since it was the first time in 33 years that the armed conflict had been officially and publicly acknowledged within and outside the country. Nevertheless, the talks were being held in a context of growing terror and repression which jeopardized the possibility of a real dialogue between the parties.

31. Mrs. OLSEN (Women's International League for Peace and Freedom) said that in Colombia, in the context of an alleged "war on drugs", the armed forces were continuing to suppress with impunity peasants suspected of collaborating with the guerrillas. The Colombian army had been given a free hand to eliminate "subversion", but its operations were intended rather to repress working class movements and silence the political opposition.

32. From a macro-economic point of view Colombia was a success story: the country was paying its debts, was experiencing sustained growth, and was meeting the conditions laid down by IMF. However, a large part of its agricultural output consisted of cash crops used to pay off the debt, to the detriment of food production for domestic consumption; while a few got rich, 70,000 children died every year from malnutrition, 75 per cent of the population had no access to education, 43 per cent lacked public services, and 20 per cent of the budget was devoted to military expenditure.

33. At the political level, Colombia had all the forms of a modern democratic State, but the system favoured large concentrations of wealth and inequalities in incomes and in the distribution of resources, coupled with very restricted political participation.

34. Over the past 10 years illicit drug trafficking in Colombia had also flourished. For the traditional Colombian élites, it was a battle for political power. The drug cartel saw itself as one powerful economic group among others, in a nation where there were several privileged sectors, such as the coffee, textiles, banana, flowers or sugar sectors. The new economic élite was trying to obtain its acceptance by the traditional élites. According to the eminent economist Kalmanovitz, the drug barons produced 3 per cent of GDP and had made enormous investments in the financial system, television, radio, pharmacy, and industry in general. They were, however, anxious to eliminate combative popular movements and were thus instigating the disappearance of artists, teachers, human rights workers, trade union leaders, peasants and members of the Unión Patriótica party. In fact, the drug barons, the military and the land-owners had formed an alliance to suppress the political opposition in Colombia. In pursuance of the campaign against drug trafficking, the United States Government was also supplying Colombia with unprecedented military assistance, which might be exacerbating internal conflicts and political violence. As President Barco had finally admitted, most of the victims were not guerrillas but peaceful Colombians.

35. In conclusion, she asked the Colombian Government to prosecute those involved in death squads and torture, invited the Sub-Commission to appoint a Special Rapporteur to study the situation in Colombia, and requested the United States of America to reconsider its policy and its campaign against drugs throughout Latin America.

36. Mr. LACK (World Jewish Congress), speaking also on behalf of the Co-ordinating Board of Jewish Organizations, wished to draw the Sub-Commission's attention to the resurgence of incitement to hatred, discrimination and violence for reasons of race, religion or nationality. The effects of those phenomena were apparent in several countries and, while national authorities were not necessarily the source of the scourge, they had an obligation to remedy it both in the immediate sphere of maintaining law and order and in the more general one of education at all levels.

37. The Government of the USSR had recently presented a remarkable study on some of those phenomena in the August 1990 addendum to the periodic report which it had submitted under article 9 of the Convention on the Elimination of All Forms of Racial Discrimination. It dealt with some of those acute problems with frankness and with an apparent willingness to take energetic measures to remedy them; the years 1989 and 1990 seemed to have been particularly productive in the USSR as far as the adoption of relevant legislation was concerned, both at the all-Union level and at that of the constituent republics.

38. Alongside such encouraging developments as liberalization, democratization and the implementation of basic human rights, it was nevertheless disturbing to see the emergence in the USSR of associations and organizations which, under the cover of patriotism, were engaging in hate propaganda strongly impregnated with racism and anti-Semitism. He instanced the organization Pamyat and other similar bodies which had largely contributed to the desire felt by an ever-increasing number of Jews in the Soviet Union to leave the country. In the USSR, such incitements to hate were not limited to the Jewish minority; similar tensions could also be observed between Armenians and Azerbaijanis, for example.

39. Tensions could also be found in other countries, as for example between the various communities of Kosovo in Yugoslavia, between Shi'ites and Sunnites in the Middle East, between Christian groups in Lebanon, and between different ethnic groups in Sri Lanka. The Western democracies were also the scene of disquieting racist and anti-Semitic manifestations.

40. Consequently, he welcomed the USSR's reaffirmed willingness to confront the phenomenon and noted in that context its decision to increase the penalties for any infringement of the national equality of citizens' rights contained in the act of 2 April 1990. The importance of those legislative provisions was further enhanced by other draft laws covering a whole series of other freedoms which had been submitted to the Supreme Soviet and adopted on first reading. He shared the view expressed by the USSR representative in the Committee on the Elimination of Racial Discrimination concerning the misuse of freedom of opinion and expression in order to propagate racial, religious or national hatred.

41. Mr. COE (National Aboriginal and Island Legal Services Secretariat) noted that with the attainment of independence by Namibia the Special Committee on Decolonization was now concerning itself with only 19 territories having a total population of 1.5 million. By arbitrarily concentrating its attention on the peoples of those territories, the Special Committee was neglecting the fate of some 200 million members of indigenous peoples still under colonial rule. Yet indigenous peoples were the victims of a process of colonization similar to that of the territories currently on the General Assembly's list.

42. In that connection it should be pointed out that in Australia Aborigines had not been considered as citizens until 1967. Moreover, the racist doctrine of terra nullius had been institutionalized there, as elsewhere, in order to justify the denial of the rights of the indigenous peoples to their territories and their resources. Forcibly incorporated within the racist colonial structures which they had not created, constantly faced with incursions into their territories and with brutal responses to their demand for self-determination, indigenous peoples were everywhere struggling for bare survival. In Australia, police brutality, the deplorable conditions in prisons and the effects of the policy of assimilation continued to constitute the daily reality of the Aborigines and seriously jeopardized their well-being and survival. The year 1989 had seen a pattern of systematically discriminatory police operations and excessive use of force against Aborigines. At the beginning of 1990 there had also been incidents in which children and old people had been maltreated. Such practices were, nevertheless, tolerated in the country at all levels, so that the rights of Aborigines continued to be violated at police stations and in prisons. He therefore requested the Australian Government to ratify without delay the Optional Protocol to the International Covenant on Civil and Political Rights and to introduce into domestic legislation provisions giving effect to the two human rights Covenants.

43. At a time of détente in East-West relations, there was a disturbing intensification of violations of the human rights of indigenous peoples. For instance, the Mohawks were at the present moment surrounded by 5,000 soldiers and by extremely violent anti-Mohawk demonstrators. Nevertheless, all the world's indigenous peoples supported the Mohawk nation in its heroic struggle, and the Canadian Government deserved censure for its cowardly withdrawal of the report which should have been submitted that week to the Committee on the Elimination of Racial Discrimination.

44. On more than one occasion the United Nations had committed itself to the complete elimination of colonialism by the year 2000. To achieve that, however, it must take into account the aspirations to self-determination of more than 200 million members of indigenous peoples still under the colonial yoke. It must also redouble its efforts to eliminate, promptly and for ever, colonialism in the territories currently on the General Assembly's list. In that connection he expressed his solidarity with the people of East Timor and deplored the Australian Government's recognition of Indonesian sovereignty over that territory. The Indonesian invasion and occupation of East Timor had never been accepted by the United Nations, and the Sub-Commission should therefore support the appeal made in 1989 by the head of the Roman Catholic Church in East Timor for the holding of a referendum on the territory's future as a first step towards decolonization.

45. Mr. RAMOS-HORTA (National Council of Indigenous Youth) stressed that East Timor was a very special case, since it had never been part of any empire before the arrival of Europeans in the region. As late as 1974, the Indonesian Minister for Foreign Affairs had confirmed in a letter to him that Indonesia had no territorial claim to East Timor; that, however, had not prevented Indonesia from invading it in December of the following year. The resolution unanimously adopted by the Security Council on that occasion had not yet been implemented, but the aggressor should not set itself up as a judge of other States which acted in a similar way.

46. Demographic statistics sufficed to reveal the violations of human rights committed in East Timor. Whereas in 1974 the population had been approximately 700,000, without a single Indonesian and with a growth rate of 2.3 per thousand, the present population, instead of amounting to 900,000 inhabitants, did not exceed 650,000, among whom must be counted at least 100,000 Indonesian immigrants. The term "genocide" had become greatly devalued, but it could be applied without exaggeration to East Timor.

47. The East Timor problem did not fall into the category of North-South or East-West conflicts. The matter must be considered with the heart, and the Timorese needed bread and freedom.

48. Mr. WADLOW (International Fellowship of Reconciliation) explained that the organization which he represented as an observer was concerned with peacemaking and with ensuring that human rights were not forgotten in any negotiated settlement; since 1988 it had been monitoring developments in nine sets of negotiations, which it could hardly be said had been turned to account.

49. In the case of Afghanistan, none of the belligerents worried about human rights; in the Iran-Iraq conflict, a settlement was admittedly in sight but the human rights situation was still a source of concern in both countries; in Cambodia, fighting was being resumed, with all the accompanying violations of human rights, and UNICEF was the only agency in the United Nations system to have a presence there, despite the enormous needs of all kinds that were making themselves felt; in the two Koreas, progress was very slow and the human rights situation was still very disquieting; in Myanmar, the only change made had been in the name: power was still in the hands of the military and no negotiations had been started with the ethnic movements; in Bangladesh, the situation in the Chittagong Hill Tracts remained tense, and more and more inhabitants were seeking refuge in India; in Sri Lanka, the Indian peace-keeping force had not accomplished its mission and violence was now spreading

to new areas; in China, the repression of the Tibetan populations was becoming harsher, the more liberal elements in the Chinese Government had been eliminated, and the present situation was one of political and social stagnation; finally, in Central America, the situation was still tense and there were many violations of human rights.

50. The International Fellowship of Reconciliation regretted that it had not been able to induce the Governments of the countries of which its members were nationals to take an interest in those conflicts and support United Nations efforts to promote negotiations. Thought was needed on how best to take advantage of the opportunities that arose to achieve real progress in advancing the cause of human rights.

51. Mr. EYA NCHAMA (International Movement for Fraternal Union among Races and Peoples) took issue with the statements made by the Liberian delegation at the forty-sixth session of the Commission on Human Rights to the effect that the movement which he represented had wrongly alarmed international public opinion concerning the massacres in Liberia. In fact, the head of the Liberian State, Sergeant Samuel Doe, was maintaining his rule through the systematic murder of all possible opponents of his régime. He had destroyed Liberian society by setting different ethnic groups against one another and now his former friend, Charles Taylor, and he were devastating the country in their struggle for power.

52. As far as the Tuaregs were concerned, he requested that Algeria, Mali and Niger be invited to supply more complete information on the situation of the Tuareg populations, on the reasons why it was precisely that ethnic group which clashed most often with the armed forces of those countries, and on the measures they had taken to put an end to those clashes.

53. In Kenya, the human rights situation was extremely disturbing. It was characterized by arbitrary detention, the expulsion of opponents and political murder. He recommended that the Special Rapporteur on summary or arbitrary executions, Mr. Wako, should visit Kenya and report to the Commission on Human Rights at its forty-seventh session.

54. In Zaire, Marshal Mobutu had recently embarked upon the transformation of the régime which he himself had installed 25 years previously. Nevertheless, when students had demonstrated against him, he had had those of the University of Lubumbashi massacred. The international community should conduct an inquiry into those massacres to determine who had been responsible for them.

55. In South Africa, the leader of the Inkatha organization, Mr. Butelezi, had never opposed apartheid and, in order to support that odious system in its decline, was trying to stir up the Zulus. He was not, moreover, alone and enjoyed support among the extremist movements in the South African police and army. The international community was therefore requested to bring pressure to bear on South Africa to prevent Mr. Butelezi from scuttling by his provocations the negotiations that were taking shape in the country.

56. Mr. ISSENGHE (Pax Romana) said that Pax Romana's deep concern regarding violations of human rights in East Timor was amply confirmed by the reports of other organizations, and even by that of a prestigious Indonesian institution, the Gajah Mada University. According to a report by that university, which was of unimpeachable credibility, the Timorese people had not accepted

integration, its economic development was held up by a war economy, the armed forces exercised excessive control over it, the improvements made in everyday life did not obliterate the memory of the deaths of countless Timorese, non-Timorese held the highest posts and disregarded local culture, and the prolonged state of war was leading to violations of human rights by the security forces present in the territory. In short, it was the denial of the right of self-determination that lay at the root of human rights violations in East Timor.

57. In vain had the General Assembly, the Security Council and most States Members of the United Nations rejected Indonesia's claims to East Timor, since the repression was continuing and Timorese continued to lose their lives in a never-ending state of war. Pax Romana ventured to hope that the Indonesian Government would abandon military action and would start, in good faith, negotiations with the representatives of the Timorese people within the framework of General Assembly resolution 37/30.

58. As far as the Tuaregs were concerned, he recalled the terrible repression to which the army of the Niger had subjected the populations concerned following recent incidents between some Tuaregs and policemen. In Mali, too, the Tuaregs were being persecuted, killed or publicly shot. The authorities of Mali were silent, but information on the many atrocities committed by the police was circulating in the capital of that country and in Dakar.

59. The sufferings of the Tuaregs, which had begun with colonization, had become more acute following the creation of independent States delimited by frontiers, for they were nomadic peoples. Pax Romana requested the appointment of an international commission of inquiry to shed light on the responsibility for the massacres and invited the Sub-Commission to use its influence to see that such a commission was constituted as soon as possible.

60. Mrs. TSAMCHO (International Association of Educators for World Peace), referring to the system of education in Tibet, stated that Chinese and Tibetans did not go to the same schools and that the level of teaching was far higher in the Chinese schools. Furthermore, the teachers sent by China did not know Tibetan, which simply reinforced the alien Chinese influence and favoured pupils who spoke Chinese well. Chinese was in any case the only language used in middle and higher schools. Tibetan was thus of no use, either at the university or for joining the civil service. Moreover, particularly gifted Tibetan pupils were sent to China for their higher studies and could not refuse selection for that purpose.

61. The Chinese authorities were also interfering in religious life and were persecuting, imprisoning and torturing monks and nuns. Such repeated attempts to destroy Tibetan culture and to impose alien policies and an alien ideology had, however, transformed most Tibetans into activists fighting for their survival and independence.

62. Mr. HARTLEY (World University Service) said that the organization on whose behalf he was speaking welcomed the negotiations which had recently been initiated in El Salvador and in Guatemala to find political solutions to the conflicts in those countries; they gave hope that the university communities and populations of the two countries, which were the victims of repression by government forces, would in the near future be able at last to exercise their rights.

63. The militarization of society was at the root of most of human rights violations in El Salvador. Teachers and students were the main targets of the armed forces, which had seriously damaged the premises and installations of the University of San Salvador and were responsible for the disappearance or murder of several members of the university community. Since the re-opening of the university, the security forces had made several incursions into it, in further violation of its autonomy. Moreover, two new bills on education, which reduced the participation of teachers and students in all matters relating to study programmes and eliminated many of their rights, as well as the autonomous status of the University of El Salvador recognized in the country's Constitution, had been or were being adopted. Meanwhile the foul murder of Jesuit priests, teachers at the University of Central America, illustrated the overwhelming power of the armed forces and the inadequacies of the judicial system in El Salvador. There was every indication that those murders had been planned by senior army officers, although the army accused the FMLN of being responsible for them. Whatever the case, the inquiry had made no progress since the first arrests in January 1990.

64. World University Service appealed to the Sub-Commission to request the Government of El Salvador to take all necessary measures for the pursuit of the inquiry with a view to punishing the perpetrators of that odious crime. It welcomed the efforts made by President Christiani to begin serious negotiations with the FMLN and hoped that the desire to reach a political solution to the conflict would prevail over the opposition of certain sectors in the armed forces and in the ruling ARENA party, which were moreover responsible for the worst violations of human rights. Only through firm international pressures could the negotiating process in El Salvador yield positive results.

65. In Guatemala, too, the situation with regard to human rights and fundamental freedoms was still a source of concern. On many previous occasions World University Service had informed the Commission on Human Rights and the Sub-Commission of its anxiety regarding the persecutions of teachers and students, particularly leaders of the students' association (AEU). Several members of that association had been kidnapped since the previous session of the Sub-Commission, and some of them had been found dead. Various non-governmental organizations had reported kidnappings and murders of university staff and students at the most recent session of the Commission on Human Rights; since then such crimes, in which the Government claimed that the security forces had played no part, had unfortunately increased. Cases had also been reported by the Guatemalan Human Rights Commission and other human rights organizations.

66. The CHAIRMAN interrupted Mr. Hartley, who had exceeded his allotted time, and invited him to conclude his statement.

67. Mr. HARTLEY (World University Service), in conclusion, requested the Sub-Commission to adopt a resolution recommending the adoption by the Commission on Human Rights and the Economic and Social Council of new measures, perhaps of an economic nature, to force the army and Government of Guatemala to put an end to discrimination, oppression and repression and to participate in the search for peace by political means.

68. Mr. CHERNICHENKO said that he shared the concerns expressed by other members of the Sub-Commission regarding the statements made by some non-governmental organizations. The latter made a valuable contribution by supplying the Sub-Commission with very full information on certain human rights violations, but they did not always check the veracity of the information collected or the reliability of their sources. For instance, one non-governmental organization had reported hundreds or thousands of arrests in a particular country, which was very inaccurate. Another had spoken of the forcible displacement of populations in seismic regions and areas of conflict, forgetting that international rules provided for such displacements and that the maintenance of populations in dangerous seismic regions was unacceptable. Such events must be interpreted in the light of the circumstances, and the organizations concerned should therefore verify the information communicated to them.

69. On another point, he was astonished that the media paid hardly any attention to the work of the Sub-Commission. No mention was made of it in the Soviet media, including the very popular weekly Moscow News, which was published in several foreign languages. It might even be the case that the members of the Supreme Soviet were unaware of the Sub-Commission's existence. The media could play a very positive role in that respect and reflect the constructive elements in the co-operative effort to promote human rights.

70. Mr. SADI shared Mr. Chernichenko's concern regarding the attitude of the media to the Sub-Commission's work. The Sub-Commission should think about it and consider how to attract the attention of the media so that they would make its work better known.

71. Mr. GRAVES (International Commission of Health Professionals for Health and Human Rights) said that for several years the organization which he represented had been concerned about the persecutions to which political opponents in Iraq were being subjected, as also about the situation of thousands of displaced Kurds who were living in camps in the north of the country and the forcible displacement of part of the Shi'ite populations in the south. The situation had been complicated by Iraq's invasion of Kuwait and the military build-ups in Saudi Arabia. The Sub-Commission should firmly condemn Iraq for its violations of human rights, but it would probably concentrate its attention on the plight of the foreigners remaining in Iraq and Kuwait.

72. Accordingly, the International Commission of Health Professionals for Health and Human Rights requested the Sub-Commission to take account of the social, economic and cultural aspects of the situation and of the clear desire of the peoples of the region to live in peace and security and to have employment and food. In particular, it invited the Iraqi Government to take action on its own account to stabilize the situation by guaranteeing the implementation of the new Constitution, organizing free elections, releasing all political prisoners, authorizing the return of all exiles, and putting an end to the sectarian policies being pursued against the majority Shi'ite population.

73. Mr. MALUZA (International Commission of Health Professionals for Health and Human Rights), referring to the situation in certain African countries, said that the Government of Zaire had been exonerated at the forty-sixth session of the Commission on Human Rights on the strength, in particular,

of the report submitted by the Commission's Special Rapporteur, Mr. Peter Kooijmans (E/CN.4/1990/17/Add.1), who had seen, in the creation of the Department of Rights and Freedoms of the Citizen (DDLC) a remarkable effort to guarantee respect for human rights. And yet, less than three months later, some 100 students had been savagely massacred at the University of Lubumbashi. The Government of Zaire had refused outright to allow an international inquiry to be made into the matter, as requested in particular by Amnesty International and the Government of Belgium, on the ground that it would amount to internationalizing an internal event. The massacre deprived of all credibility the promises to democratize the régime made by the Head of State of Zaire on 24 April 1990 and increased the concern of many opponents of the existing régime for their own physical safety and the fairness of the elections that were due to take place in January 1991. His organization would like the Sub-Commission to send to Zaire a committee of experts, composed in particular of nationals of African States, for the purpose of verifying the facts relating to the massacre and of visiting the secret dungeons mentioned in the report prepared by Mr. Kooijmans. In view of the overall human rights situation in Zaire the Sub-Commission should adopt a critical and vigilant approach, since it was obvious that the creation of the Department of Rights and Freedoms of the Citizen was due more to Zaire's concern to improve at all costs its image in the eyes of the international community than to a lasting political will to promote a society genuinely subject to the rule of law.

74. The most elementary rules of international humanitarian law were also being flagrantly violated and flouted in Liberia and in Gabon. However, pursuant to the principles of national sovereignty and of non-interference in the internal affairs of other countries, the Western States, particularly France and the United States of America, had elected not to provide the slightest assistance to the civilian populations of those two countries. By deciding, at the recent Franco-African summit meeting at La Baule, to cancel the debt of the African States, France had also bailed out the African dictatorships. The United States, for its part, was content to be a passive spectator of the carnage in Liberia, to get its nationals out of the country, and to protect its telecommunications installations. In view of the alacrity and spontaneity with which the Western countries had come to the help of the peoples of eastern Europe, and very recently of the people of Albania, the African peoples were beginning to think that human rights were being promoted in a discriminatory manner at the international level. It was urgently necessary for the international community to take steps towards establishing a right of interference in matters of human rights, solely for the purpose of coming to the help of peoples in danger, preventing torture and promoting all human rights.

75. The CHAIRMAN interrupted Mr. Maluza, who had exceeded his allotted time, and asked him to conclude his statement.

76. Mr. MALUZA (International Commission of Health Professionals for Health and Human Rights), in conclusion, requested the Sub-Commission to encourage the African States which had not yet done so to ratify the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to invite the Governments of Ethiopia and Morocco to respect and apply the right of self-determination of the Eritrean and Sahrawi peoples.

77. Mrs. WARZAZI strongly protested against the preceding statement, which she considered unacceptable. Non-governmental organizations must refrain from any aggessive behaviour towards a State and help to promote the purposes and principles of the United Nations. The comments which had just been made were clearly at variance both with those purposes and principles and with the status of non-governmental organizations. As far as Morocco was concerned, she pointed out that the Security Council had unanimously adopted the Secretary-General's comprehensive plan of action for the organization of a referendum on self-determination in the Sahara. Non-governmental organizations must not take advantage of their status to attack Governments, take up political questions and undermine the efforts being made by the Secretary-General.

78. The CHAIRMAN appealed to all participants to limit their comments to the item under consideration and refrain from dealing with topics outside the Sub-Commission's terms of reference. He also asked the technical services to co-operate with the Chair by switching off the speaker's microphone when, for one reason or another, he interrupted a statement. Without wishing to discourage non-governmental organizations from taking the floor or to limit their right to freedom of expression, he urged them to respect the rights of others. He assured the Sub-Commission that he would see to it that the time allowed for statements and the provisions of rule 43 (2) of the rules of procedure were complied with.

The meeting rose at 1 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 22nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 22 August 1990, at 4 p.m.

Chairman: Mr. TURK

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Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

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The meeting was called to order at 4.25 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6, 10, 19 and 20; E/CN.4/1990/3, 25-27, 45 and Add.1, 52 and 55; A/44/620)

1. Mr. AL-DOURI (Observer for Iraq) said that recent human rights developments in his country merited attention. Those included discussions on a new constitution due to be proclaimed the following year and guarantees for human rights, political freedoms and press freedoms. Stability, calm and optimism prevailed in public life throughout the country. In particular, there had been progress in the autonomous region of Iraqi Kurdistan, where thousands of people had returned to their homes and where economic and social progress had been achieved. There had been a general amnesty for prisoners except for those condemned for espionage, drug-trafficking or murder.

2. He was glad that some members of the Sub-Commission had taken advantage of the invitation extended by the Iraqi Human Rights Association to visit Iraq in order to gain first-hand knowledge of the situation there, especially in the northern part of the country. He hoped that they would inform their colleagues of what they had seen. The Iraqi Human Rights Association intended to extend an invitation for a mission to visit Iraq whenever the situation permitted.

3. The human rights situation in Palestine and the occupied Arab territories was deplorable. Schools and universities had been closed, there was a ban on trade unions and press freedom, and Palestinians had been physically tortured. Because of the deterioration in the situation it was essential for the Sub-Commission's resolutions to be implemented. The resolutions of international bodies were applied selectively according to the interests of various countries in the world.

4. His delegation was optimistic in regard to the situation in South Africa and hoped that the people of that country would recover their economic, political, social and cultural rights with the abolition of apartheid and the implementation of all human rights instruments.

5. Iraq was in somewhat special circumstances because of the current situation in the Gulf, which some wished to exploit. Some representatives of non-governmental organizations had frankly said that there could be no better opportunity for adopting a resolution aimed against Iraq. Indeed, a draft resolution on Iraq had been circulated even before discussion of item 6. He hoped that the members of the Sub-Commission would not allow any further exploitation of the situation, which would only exacerbate matters. That situation was particularly dangerous because of the Western military occupation of the region which could result in a confrontation threatening peace, security and human rights throughout the region.

6. He called on the Sub-Commission not to bow to pressures from certain quarters that might lead it into areas outside its competence, especially since the higher instances of the United Nations were in constant contact with the Government of Iraq in order to find a solution to the problem.

7. Mr. KAMAL (Observer for Bahrain) said that newly achieved international détente had it made possible for the world community to deal with challenges such as poverty, malnutrition, pollution and the settlement of regional conflicts. However, the occupation of Kuwait challenged that détente. In the interests of the Middle East region it must be opposed and ended. Confrontation would only lead to destruction throughout the region and give Israel a much needed argument for the continued occupation of Palestinian and Arab territories. Bahrain, together with the other members of the Gulf Co-operation Council, had condemned the aggression of a brother Arab country and called for the immediate and unconditional withdrawal of Iraqi forces, basing themselves on the principles of the Charters of the Arab League and the United Nations and on opposition to occupation by foreign military forces.

8. Turning to the question of the situation in Palestine and other occupied Arab territories, he condemned the excesses committed by the Israeli authorities against innocent Palestinian people, including children. Houses had been destroyed and bullets and toxic gas used. Israel had even used heroin to extort confessions from prisoners. At the same time it claimed to be an oasis of democracy in the Middle East.

9. Israel had committed acts unparalleled by racist régimes. Israel did not wish for peace. It had been founded 48 years before on the basis of terrorism and its attempts to mislead public opinion were well documented. Israel had refused to apply United Nations resolutions in order to keep territory that it had occupied by force to prevent the development of the Palestinian people, whose rights, institutions and holy places had been violated. Indeed, Israel practised discrimination between Ashkenazi and Sephardic Jews, as witnessed by the recent distribution of gas masks and the replacement of Sephardic Jews by Soviet Jews in the territory. Fact-finding missions by Western countries had revealed violations of basic human rights in the occupied territories. The Sub-Commission had a responsibility to take measures to end such actions and to create a climate in which the Palestinian people were given the right to self-determination and independence on their national soil under the direction of the PLO, their sole and legitimate representative.

10. Mr. ELARABY (Observer for Egypt) said that Egypt condemned all violations of human rights throughout the world. International relations should be based on respect for principles that were the corner-stone of the contemporary order, in particular non-recourse to the use of force and the peaceful settlement of disputes. Unfortunately, grave violations of those principles were being committed in the Middle East. International legitimacy must be respected, and Egypt had demanded the immediate withdrawal of foreign forces from Kuwait.

11. Turning to the question of human rights in the occupied Arab territories, he said that the Israeli authorities continued to deny freedom and independence to the Palestinian people.

12. The international community had recognized that the Palestinian people should enjoy the same rights as all others in the world pursuant to the principles of international law. General Assembly resolution 181 (II) of 1947 had recommended the creation of two States, not one, on Palestinian soil.

13. The repeated attempts by Israel to change the demographic composition of Palestine by establishing immigrant settlements and its blatant violation of

the Fourth Geneva Convention of 1949 represented a challenge to the international community. The settlement of immigrants jeopardized all hopes of the peaceful and just settlement of the conflict.

14. The continued violation of human rights in Palestine was inconsistent with all Israel's obligations under the Charter of the United Nations and the 1949 Geneva Conventions. The application of the common article 1 of the four Geneva Conventions, which stipulated the joint responsibility of all States Parties, would protect the Palestinian people and would be a way of retaining the present characteristics of the occupied Arab territories.

15. The Secretary-General had recently taken steps to protect the Palestinian people. He had designated Mr. Francis Blanchard, former Director General of the International Labour Organisation as his special adviser on humanitarian assistance and economic development in the occupied Arab territories. Regrettably, however, the Government of Israel had so far not authorized his mission. The Secretary-General had also sent Mr. Jean-Claude Aimé as his personal representative to the occupied territories in order to focus attention on the need to protect the Palestinian people.

16. He hoped that the members of the Sub-Commission, who were well known for their impartiality and integrity, would focus attention on the question of Palestine and adopt a very firm stand with regard to the violation of human rights in the occupied territorities. The Sub-Commission had been the first international forum to welcome the accession of Palestine to the Fourth Geneva Convention of 1949 and the Additional Protocol of 1977. He trusted that the Sub-Commission would support the rights of the exiled people of Palestine to return to its land and live in peace with its neighbours.

17. Ms. SINEGIORGIS (Observer for Ethiopia) said that her statement was not in right of reply to familiar diatribe heard from the so-called non-governmental organizations, Centre Europe Tiers-Monde and the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD) against her country. Over the years her delegation had drawn the Sub-Commission's attention to the utterly irresponsible behaviour of certain so-called non-governmental organizations and their arrogant disregard for the rules governing consultative status. She was happy to observe that during the discussion on item 6 at the present session, a number of experts had emphasized the imperative need for non-governmental organizations to exercise prudence, credibility, political objectivity, sincerity and above all the impropriety of including in their delegations members of opposition groups. Her statement was therefore addressed to all who were willing to be apprised of the true state of affairs existing in Eritrea, the northern part of Ethiopia.

18. In that area an attempt by secessionist forces to dismember Ethiopia was taking place. The so-called representative of Centre Europe Tiers-Monde, who was in fact a member of the secessionist group, had compared the diabolical acts of plunder and destruction of the secessionists to the independence struggle of Namibia. That was an insult to Namibians who had waged a long and bitter struggle against colonialism and apartheid to achieve their independence.

19. In the past her Government had made considerable efforts to find a peaceful solution to the problem in Eritrea. As she had informed the

forty-first session of the Sub-Commission, the Ethiopian Parliament had undertaken a new peace initiative to solve the problem in a peaceful way, to end the civil war, to ensure the prevalence of peace and in that process to start negotiations with any opposition group desiring to create a peaceful atmosphere in which the task of national construction would be possible.

20. That latest peace initiative had been acclaimed by the international community as a great step forward, promising a negotiated settlement to the conflict. Former President Carter had taken the initiative of mediating, and under his chairmanship the first round of negotiations on procedural matters had been held in Atlanta, Georgia, in September 1989. In November 1989 the preliminary talks had continued in Nairobi, at the end of which agreement had been reached on all procedural issues. While preparations were being made for the opening of the substantive talks, however, the secessionist forces had launched an unprovoked armed offensive on several fronts including the port of Massawa on 8 February 1990, thus shattering all hopes of reaching a negotiated settlement.

21. Last June the EPLF separatist group had announced publicly that it had decided to withdraw from the peace talks and pursue a military option. That had immediately followed the Ethiopian Government's agreement that the United Nations should be invited to participate as an observer in the talks, although it was not required to do so under the Nairobi Agreement. The United Nations had earlier declined to accept the invitation on the grounds that it rarely involved itself in internal conflicts. It was important to recall that that had been the only pretext of the secessionists for not starting substantive talks. Her Government had consequently gone out of its way to remove what it then believed to be the only obstacle. The perpetrators of those monstrous acts of terror had now been unmasked. The fact that they had hampered the peace effort should be condemned in the strongest terms. The obstructionist behaviour of the secessionist group had been deplored by the international community.

22. President Carter had blamed the separatists for breaking the de facto cease-fire and for exposing millions of people to death by starvation because of their outrageous intransigence. Former President Nyerere had also called the rejection of the peace talks by the secessionists a tragedy.

23. That was an overview of the situation. Her delegation totally dismissed the absurd accusations of the member of the secessionist group on 17 August and the representative of EAFORD on 21 August that the Ethiopian Government had used bombs against its own people. Since the secessionists themselves were the cause of the suffering of the Ethiopians in the northern administrative region, their falsification of events ostensibly to protest against human rights violations would dupe no one in the Sub-Commission.

24. What was even more unforgivable was that the atrocious acts of destruction unleashed by the secessionists had had serious adverse consequences for relief operations in northern Ethiopia. Needless to say, that had been the main preoccupation of her Government over the past years. Undeterred by the terrorist activities of the secessionists, it had spared no effort in searching for all possible avenues to facilitate and expedite relief supplies to the inhabitants of the region.

25. Ever since the unprovoked attack on Massawa by the secessionists on 8 February 1990, the Government had intensified its efforts to ferry relief supplies both by land and by air to the drought victims in the autonomous region of Eritrea. Following the military offensive, the Government had quickly decided to open an alternative route in the south to transport relief aid to areas seriously affected by the drought. It had extended every assistance to the Joint Relief Partnership, United Nations agencies and non-governmental organizations to enable them to carry out their relief operations. In a statement issued on 5 June 1990, her Government had declared its willingness to accept in principle the use of the port of Massawa for the delivery of relief supplies as well as other goods and its readiness to discuss with donors and other concerned parties arrangements for the use of the port; it had greatly welcomed the agreement reached between the United States of America and the Soviet Union to combine their assets in an airlift operation which was being initiated with the co-operation of the United Nations.

26. However, in an attempt to block those humanitarian efforts, the secessionists had resorted to all kinds of devious tactics. As recently as 24 July 1990, the World Food Programme had sent a technical survey team to the port of Massawa to assess the reopening of the port for the shipment of urgent additional humanitarian supplies. Its vessel had had to be recalled because of the refusal of the secessionists to allow it to dock at the harbour. The Secretary-General and the Governments of the United States of America and many other countries had strongly condemned that reprehensible and inhuman act. In its statement, the United States Government had pointed out that half the people at risk of starvation in the current famine were Eritreans, whom the insurgents claimed to represent, and that the insurgents were endangering the lives of those people by subordinating the relief effort to their political agenda.

27. Those facts showed that the allegations made against the Ethiopian Government were designed to conceal the inhuman and treacherous acts of the secessionists. Accusations of such a nature could not mislead or confuse the Sub-Commission. The objective was absolutely clear - to block all possible avenues to resolving the problem in Eritrea peacefully and to obstruct the shipment of relief supplies to victims of drought in the region.

28. It was revealing that the representatives of the NGOs concerned had not uttered one word about the arrogant withdrawal of the secessionist group from the peace talks and its insensitivity to the sufferings of her compatriots through their obstruction of the relief efforts being made by her Government and the international community. In words and deeds the secessionists had made it clear that they had opted for a military solution. Her Government, for its part, remained fully committed to the peace process and would continue to discharge its sacred duty of defending the national unity of Ethiopia.

29. Mr. COSTA LOBO (Observer for Portugal) said that East Timor was one of the cases on which the Sub-Commission could most clearly bring its expertise and independence to bear. News reaching the outside world from East Timor showed that the human rights situation there continued to be extremely serious. Cases of arbitrary detention, disappearances and summary executions were increasing, and the climate of repression appeared to be worsening. Obviously, there was a direct link between that situation and the denial of

the population's right to self-determination. In 1989, the occupation authorities seemed to have intensified their control over the territory by increasing the number of troops and police stationed there and by re-establishing the need for a permit to visit certain areas, as well as by making disturbing statements as to future prospects with regard to freedom, democracy and respect for human rights.

30. The written and oral evidence of Timorese on the situation in the territory were confirmed by serious reports and by many articles in the international press, of which there would have been more if visits by journalists and other independent observers to East Timor had not still been severely restricted.

31. According to Amnesty International's 1990 report, the detention of persons who protested peacefully or criticized the Government continued to be a common practice: some detainees were subjected to torture. The report also stated that at least 20 persons had been illegally executed by the security forces. Another document issued by that organization in May 1990 indicated that in February 1989 it had applied to the Indonesian Government for permission to visit Indonesia and East Timor; however, according to the statement recently made by the representative of Amnesty International to the United Nations Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in New York, at that time Amnesty International had still not received a reply. That situation was very revealing of the degree of openness prevailing, notwithstanding any statements that might be made by the Indonesian Government.

32. Furthermore, the latest country report on human rights by the United States Department of State devoted substantial space to the situation in East Timor, reporting cases of summary execution, torture, disappearances, arbitrary detentions and house-breaking. Also important were the references to the situation in East Timor made in the reports submitted to the Commission on Human Rights at its most recent session, especially the report on enforced or involuntary disappearances (E/CN.4/1990/13), the report on torture and certain other matters (E/CN.4/1990/17), and the report on summary or arbitrary executions (E/CN.4/1990/22).

33. In addition, an Indonesian and an Australian newspaper had published extracts from the report drawn up by a team of university researchers who had worked for one month to the east of Dili, the capital of East Timor. The work had been subsidized by the Bank of Indonesia, which was seeking information on the investment potential of certain local projects. Significantly, a seminar which was due to have been held on 19 April 1990 to analyse the conclusions reached in the report had been postponed sine die. One of the conclusions was that the population of East Timor did not consider that integration had solved the problem of decolonization and that the population felt itself to be subjected to a real culture shock, being confronted with values and forms of culture different from its own. One of the aspects most unacceptable to the population was said to be the massive installation of families from different parts of Indonesia. The report affirmed that there would be some economic development, but the general feeling was that East Timor was in the process of being exploited for the benefit of Indonesian economic interests. The report pointed out that the population felt that it was being colonized.

34. Many reports on the situation in East Timor stressed that young people were playing a very important role in all demonstrations of opposition to the régime imposed by the occupation. That showed that the traditions, values and culture of the population had deep roots and that it would be wrong to think that the passage of time would lead to a voluntary and peaceful acceptance of the status quo.

35. The world had recently witnessed spectacular upheavals having very positive repercussions on human rights. They had undoubtedly increased the hopes of all those who were struggling for their rights because they had proved that even in situations that seemed to be extremely stable and solid, failure to respect human rights was never irreversible. Thus, in such situations there was no conflict between adopting a position in favour of human rights and a position of political realism. Real realism was to side with human rights by helping the internal drive in favour of them to assert itself against the forces which sought to stifle them.

36. The Portuguese Government, aware that effective respect for the rights of the population of East Timor must be based on an overall solution of the problem, was sparing no efforts to find such a solution. It was doing so, above all, through its co-operation with the Secretary-General under the terms of General Assembly resolution 37/30. The Secretary-General was to be congratulated on the action which he was taking under that mandate.

37. Portugal would continue to be firmly committed to finding, through dialogue and agreement, a just and internationally acceptable settlement of the East Timor problem, which must take due account of the rights and legitimate interests of the inhabitants by bringing them an effective and lasting peace and by putting an end to the abuses to which they were being subjected.

38. Mr. LOPES DA CRUZ (Observer for Indonesia) said that in the discussion of human rights violations, particularly under agenda item 6, it was appropriate to consider civil and political rights, on the one hand, and economic, social and cultural rights, on the other, in an equitable manner. As part of the effort to make the Sub-Commission more effective as a true forum of independent experts, it was commendable that the political inclination to pick and choose human rights cases be avoided. The intricacies of the current international system might make it possible for such arbitrariness to happen but, if a serious effort was to be made to find out the truth, arbitrariness must be put aside.

39. There was no doubt that in promoting the rights of the individual and the collective rights of society, the right to self-determination was the most fundamental of all rights. For his Government, that right was not merely a slogan but a conviction hardened by a long diplomatic and physical struggle for independence, as was confirmed by the preamble to Indonesia's 1945 Constitution. The history of international relations had revealed that the right to self-determination as one of the principles incorporated in the Charter of the United Nations was not meant, at least for some colonial Powers, to be identical with independence. For certain metropolitan Powers it was not considered a right but as something to be granted. Only in 1960 was the right to self-determination given a more precise meaning through the adoption, by the United Nations, of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

40. In East Timor, independence had been attained by a physical struggle that had inflicted much suffering. As President of UDT, the largest political group there during the process of decolonization, he had been personally involved in the bitter civil war and in the struggle to protect the people from the tyranny of the armed minority. With the other three political parties representing the overwhelming majority of the people of East Timor, in September 1975 UDT had decided that independence through integration with Indonesia was the best solution. The common position had been confirmed by the decision of the People's Consultative Assembly in May 1976. Thus the decision had been taken by the overwhelming majority of the East Timorese in a democratic manner. It was fully realized that independence alone would be meaningless if it was not possible to give material form to people's aspirations for a better life. What was being done in East Timor was precisely aimed at improving the living standards of the people - in other words, to increase the enjoyment of all aspects of human rights. Even though much still needed to be done, in the 14 years of the territory's integration with Indonesia the people of East Timor had benefited from the development process. Tremendous strides had been accomplished in all areas, specifically in the development of agriculture, health, education, public housing, communications and religious life. Those achievements were recognized by independent observers who had visited the province. The Central Government had given priority to the development of East Timor and welcomed the co-operation offered by foreign countries and organizations.

41. His delegation fully shared the view that achievements in the socio-economic field could not justify violations of civil and political rights. East Timor's equal status with Indonesia's other provinces was aimed at improving the enjoyment of rights and at ensuring a greater freedom to enter and leave the province. In fact, ever since the early period of integration, hundreds of people had left the province with the co-operation of international humanitarian organizations.

42. As part of its openness, Indonesia had adopted a more liberal immigration policy which facilitated a simple entry visa procedure for foreign visitors. In addition to visits by foreign dignitaries, representatives of certain organizations had visited the province as early as May 1989 and had been able to travel within the area without restrictions. Mention had often been made of reports of visits by individuals who had posed as tourists but who had subsequently claimed to have been eyewitnesses of particular events. Even though such visits might have been proved possible, his delegation opposed the notion of an investigative visit.

43. With regard to freedom of religion, in October 1989 Pope John Paul II had been received in Indonesia and had had the opportunity to visit East Timor, among other places. Addressing the Diplomatic Corps in the Vatican on 13 January 1990, he had stated that he had recently been able to note the beneficial effects of such interconfessional understanding in Indonesia, where the principles of Pancasila enabled Islam and other religions practised by the inhabitants of that country to come together in a harmonious dialogue benefiting the whole of society.

44. Indonesia's determination to promote the enjoyment of human rights in all its aspects was part of its conscious development efforts, as President Suharto had emphasized in his recent Independence Day speech.

Indonesia's perception of human rights was a logical consequence of the principle of a just and civilized humanity. Its efforts to promote human rights were gaining momentum. The existing national institutions dealing with human rights would be strengthened and new ones would be established. As a future member of the Commission on Human Rights as from 1991, Indonesia hoped that it would be able to increase its contribution to the common endeavour.

45. Mr. GOKCE (Observer for Turkey) said that although the Cyprus issue was to be taken up, in all its aspects, by the two sides in the island under the mission of good offices of the United Nations Secretary-General, as confirmed by Security Council resolution 649 of 12 March 1990, in view of various statements made on the Cyprus issue in the Sub-Commission his delegation felt obliged to elaborate once again on some of the essential points.

46. The conflict between the Turkish and Greek Cypriots had not come about in 1974 as a result of the legitimate Turkish military intervention, but almost 20 years earlier, when the island had still been under British rule. The reason for the confrontation had been the attempt by the larger Greek Cypriot side to impose its will on the smaller Turkish Cypriot side and to reduce it to the status of an oppressed and powerless minority. However, the island had emerged from British rule in 1960 as an independent State with an internationally guaranteed bi-communal Constitution as a result of the separate exercise of self-determination by both sides. There were two different peoples in Cyprus. Consequently, the "Republic of Cyprus" had two co-founders. However, the partnership had lasted only three years. In pursuance of the infamous Akritas Plan designed to unite the island with Greece and to exterminate the Turkish Cypriot people, in 1963 Greek Cypriots had ousted Turkish Cypriots from their constitutionally guaranteed positions in the organs of the State and had launched savage armed attacks on them, thus initiating the present problem.

47. As a result of the Greek Cypriot policy of exterminating the Turkish Cypriots, the two peoples in Cyprus had had no joint institutions since 1963. Between 1963 and 1974, Turkish Cypriots had been the victims of constant armed attacks, humiliation and political and economic pressures. They had been gradually compelled to withdraw into self-administered enclaves scattered throughout the island. In 1966, Archbishop Makarios had declared that the Zurich and London agreements were abrogated. In June 1967 the Greek Cypriot legislature had unanimously adopted a resolution in favour of Enosis, union with Greece. For the purpose of bringing about immediate Enosis, the well-known coup d'etat of 1974 had taken place, and Turkey, in exercise of its rights and obligations under the 1960 Treaty of Guarantee, had had to intervene to protect the independence of the island by preventing its annexation to Greece and to save the Turkish Cypriot people from annihilation. Thus the attempt of the Greek Cypriot side to Hellenize the island and to be sole master of it had once again failed.

48. The existence, in Cyprus, of two separate administrations had been unequivocally recognized through the declaration made by the Ministers for Foreign Affairs of the three Guarantor Powers at the conclusion of the first Geneva conference on 30 July 1974. The Ministers had noted the existence in practice, in the Republic of Cyprus, of two autonomous administrations - that of the Greek community and that of the Turkish community.

49. Turkey supported an agreed settlement in Cyprus and the Secretary-General's mission of good offices. The goal was to establish a bi-communal and bi-zonal federation as confirmed by Security Council resolution 649 (1990) of 12 March. The resolution, inter alia, called for negotiations on an equal footing. The resolution further stipulated that a settlement in Cyprus was to be freely reached by the two sides and must be mutually acceptable. That fundamental element needed to be respected by all concerned if negotiations were to succeed and their outcome accorded public approval on both sides.

50. The Turkish Cypriot side welcomed Security Council resolution 649 (1990) as a possible fresh starting point for future negotiations. In contrast the Greek Cypriot side had engaged in a line of action incompatible with the draft resolution. Instead of abiding by the Security Council's call to refrain from any action that could aggravate the situation, it had continued to engage, in international forums, in propaganda activities against Turkish Cypriots. It had further violated Security Council resolution 649 (1990) by applying for full membership of the European Economic Community, thereby violating article 1 of the 1960 Treaty of Guarantee, according to which the "Republic of Cyprus" had undertaken not to participate in whole or in part in any political or economic union. The Greek Cypriots had thus created an obstacle to all efforts to achieve a freely negotiated and mutually acceptable settlement. That obstacle needed to be promptly eliminated.

51. The Greek Cypriot side was trying to erode Security Council resolution 649 (1990). By dragging the issue into all kinds of forums for propaganda purposes, it revealed how unwilling it was to come to terms with its counterpart, the Turkish Cypriot side. It was now of even greater importance that third parties should treat the two sides in Cyprus equally and fairly. In Cyprus, there was no single authority based on the consent of both sides. That would come into being only after a mutually satisfactory solution was found.

52. His delegation deplored the fact that a debate on Cyprus was taking place in the absence of one of the two parties directly involved in the negotiating process. If the Turkish Cypriots felt the need to reply to the baseless allegations made in the Sub-Commission in their absence, unfortunately they would have to do so once again in writing and after the debate was over.

53. Mr. STIGLICH (Observer for Peru) said that, during the past 10 years, the increasingly violent campaign waged by the extremist and criminal group known as the Sendero Luminoso had led to the loss of 18,000 lives and to economic damage estimted at $17 billion. The violence and killings had continued even after the election on 28 July 1990, by the democratic process, of President Alberto Fujimori and a new national Parliament and regional governments.

54. The objective of Sendero Luminoso was to destroy democracy in Peru with a view to seizing power and, to that end, it was following a three-pronged strategy designed to destroy the economic infrastructure, deter the population from participating in the political process, and perpetrate massive violence against the rural population and members of the armed forces with a view to a spiral of repression ultimately producing a horrendous confrontation between the latter and the people. The situation had deteriorated further because of the economic crisis.

55. In the exercise of its legitimate right to defend itself against subversion, his Government had not been able to prevent some excesses in the war-ridden areas of the country. Such cases, however, had been isolated and exceptional and did not represent a conscious and deliberate government policy in its efforts to combat subversion.

56. The Government was doing everything it could to prevent the occurrence of such excesses and, when they did occur, to initiate the appropriate investigations to identify and punish those who were responsible. However, it should be pointed out a great deal of time was needed to clarify the true situation of alleged disappeared persons, particularly in the case of members of the rural population in the Andean region, who did not speak Spanish, were not officially registered, did not have military or electoral identification, were migratory and without permanent domicile. The situation might be further complicated by the incomplete nature of the allegations, incorrect spelling of names and vagueness as to dates and places where the disappearance was alleged to have occurred. Moreover, terrorist groups used a comprehensive strategy to frustrate any operations waged against them by the armed forces, presenting them as the sole perpetrators of massive violations of human rights.

57. Notwithstanding those difficulties, the Government continued to make every effort to ensure the full protection of human rights in Peru. There was complete freedom of press and of information; the right to organize was stipulated by law; workers could freely exercise their trade-union rights; political parties were able to operate without restriction, whether they belonged to the Marxist-Leninist left or to the most conservative right-wing groups. There had been three free elections in the last two years notwithstanding the threats of subversive elements. The commitment of Peru to the promotion and protection of human rights was clear and transparent as had been demonstrated in the close contacts maintained with various sections of the Centre for Human Rights.

58. The new Government had decided to continue the country's traditional human rights policy and that decision was also reflected in its foreign policy as had been made clear by the new Minister of External Relations. In that connection he wished also to mention the constructive contribution made by his delegation to the work of the Commission on Human Rights. Peru would continue to collaborate actively with all international agencies and entities connected with the promotion and protection of human rights.

59. Mr. ENHIMA (Observer for Morocco) said that violations of human rights occurred in every country in the world regardless of its economic and social system, whether it belonged to the North or to the South, to the group of rich countries or to those which were economically dependent on the North because of the negative influence of foreign debt. There was therefore a need to find means of ensuring the effective implementation of human rights and freedoms everywhere.

60. The Sub-Commission had the duty to focus greater attention on the reasons which prevented the realization of human rights and freedoms throughout the world. The main factors at work in the world were currently the question of democracy and human rights; the crisis of socialism resulting from the gradual return of the socialist countries to free market economies; and the impact of underdevelopment on the effective enjoyment of human rights and freedoms.

61. Developments in Central and Eastern Europe currently gave food for thought, particularly such factors as the unification of Germany, the greater attention being paid to the rights of minorities and the relationship of all those developments on the exercise of human rights and freedom.

62. One expert had pointed to the changes in the relationships of States with the racist régimes of Israel and South Africa. It had been noted that after the process of democratization had begun, the States of Central and Eastern Europe had fallen more into line with the practices of the international community.

63. The violations of human rights perpetrated by South Africa against the black majority and by Israel against the Palestinian inhabitants of the Arab territories, including Palestine, were impossible to pardon or forget. The Palestinian people were not strong enough to confront the occupying forces by themselves and had only their lives to give in resistance to the occupation. It was up to the countries that were responsible for international peace and security to bring pressure to bear on Israel to withdraw from the occupied territories and to respect the inalienable rights of the Palestinian people on its national soil. United Nations reports on Israeli practices contained a long list of human rights violations in Palestine, the Golan Heights and in Lebanon. Reports by humanitarian organizations indicated that the situation of Palestinian children was deteriorating. The situation was further aggravated by the immigration of Jews from elsewhere which was taking place at the expense of the legitimate rights of the Palestinian people in their homeland.

64. The international community and the Sub-Commission in particular must endeavour to ensure international protection against the repressive terrorist activities of Israel for the Palestinian people so that it could enjoy its full rights to freedom and sovereignty.

65. Mr. SOKHONA (Observer for Mauritania), speaking in exercise of the right of reply, said that his Government had always given priority to dialogue and co-operation with non-governmental organizations. The International Commission of Jurists (ICJ) ought to be able to attest to that fact. In 1988 alone, two missions from that organization had visited his country and had been able to investigate the general human rights situation freely. Contacts between his country and the ICJ had been maintained until the organization had itself put an end to them. The ICJ would therefore have enjoyed greater credibility if it had sent a mission to Mauritania to verify the allegations it had made in the statement at first hand.

66. Its allegations on the issue of slavery were completely without foundation. In that connection, he referred the Sub-Commission to the relevant report by Mr. Bossuyt, (E/CN.4/Sub.2/1984/23) on his mission to Mauritania in 1984.

67. The International Commission of Jurist's conduct, in terminating unilaterally its dialogue with Mauritania was in any case somewhat strange and the statement made the previous day by the representative of the organization showed a frankly partisan spirit. Mauritania hoped that the International Commission of Jurists would revert to a more objective attitude, in the interests of the cause of human rights.

68. Mr. ZHANG (Observer for China), speaking in exercise of the right of reply, said that the representative of the International League for Human Rights, together with other non-governmental organizations, had wrongly accused China of suppressing freedom of speech.

69. The incident which had taken place in June 1989 had been rebellion against the authorities of China. Its purpose had been to overthrow the Government, with the support of outside forces, and thus to deprive one fifth of the population of the world of their freedom by making China a dependency of the great Powers. The Government had been obliged to suppress the rebellion because of the need to safeguard the independence of the country from external influences and to defend the dignity of the Constitution. The situation in China had long since been stabilized; martial law had been lifted in part of Beijing and the Government had treated the culprits involved in the rebellion in a manner which was lenient, bearing in mind the seriousness of their acts; many had been released.

70. Certain forces had always opposed China and had persisted in their attempts to vilify the country in an effort to isolate it. Such efforts were doomed to failure. The Government and people of China would, in a joint effort, continue the reform process and, in the international field, the Government would pursue its independent foreign policy of peace and co-operation on an equal footing with other States.

71. With regard to Tibet, the representative of one non-governmental organization had seen fit to disregard the facts and distort history. Before 1950, there had only been one school in Tibet; total enrolment had been 600 while 98 per cent of the population were illiterate. Enormous progress in education had been made and there were currently 2,400 primary schools and 68 middle level schools in addition to many institutions of higher learning. Those facts proved that the statement by that representative was untrue and motivated by political influences.

72. In conclusion, he wished to stress that the progress made by Tibet since the democratic reforms of 1959 could not be denied.

The meeting rose at 6.10 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 23rd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 August 1990, at 10 a.m.

Chairman: Mr. TURK

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The meeting was called to order at 10.20 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION ESTABLISHED UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1990/15, 16, 49 and 50; E/CN.4/Sub.2/1990/NGO/2, 6, 10, 19 and 20; E/CN.4/1990/3, 24-27, 45 and Add.1, 52 and 55; A/44/620)

1. Mr. RASAPUTRAM (Observer for Sri Lanka) said that, with the return to normal in the southern part of the country, the Sri Lankan Government had lifted a number of emergency measures introduced at a time of heightened violence the previous year. It had also taken specific measures to investigate alleged violations of human rights and had not hesitated to seek the assistance of numerous national and international organizations such as the United Nations and the International Committee of the Red Cross. The Government had instructed law enforcement authorities to expedite those investigations with a view to prosecuting the offenders whoever they might be. A number of members of the security force were facing trial before the courts in Sri Lanka, and other cases were being investigated by the judiciary in accordance with the laws of the country.

2. As part of the measures adopted, the Sri Lankan Government had invited the United Nations Working Group on Enforced or Involuntary Disappearances to visit Sri Lanka with a view to clarifying certain cases it was investigating. The International Committee of the Red Cross, since its arrival in the country in October 1989, had visited numerous places of detention, including police stations. It should also be mentioned that persons detained for suspected subversive acts had been released and that a programme was being implemented to reintegrate them into society. Furthermore, 22 political parties of various philosophies had participated in a general conference to find a collective solution to the problems facing Sri Lanka. The conference had entrusted a specially established commission with inquiring into the causes of unrest among youth. Most of that commission's recommendations, which had been described by the Sri Lankan delegation before the Commission on Human Rights at its previous session, had been implemented.

3. Unfortunately, the Sri Lankan Government was currently facing a new spiral of violence unleashed by an armed separatist group known as the "Liberation Tigers of Tamil Eelam" (LTTE). The Sri Lankan Government, which had always sought to resolve conflicts in an open and democratic manner with a view to reaching political solutions through consultation, compromise and consensus, had adopted measures aimed at devolving certain powers to the provincial authorities to help them maintain the security of their respective communities. In particular, it had established provincial police forces reflecting the ethnic mix of the respective areas. The Government had then initiated negotiations with the LTTE, the only Tamil political party that had not been willing to enter the democratic political process already under way. The LTTE, however, had refused to give up violence and weapons, and at a time when the Government and all communities, including the overwhelming majority of Tamil people, had been optimistic that a negotiated solution was possible, it had broken off negotiations on 10 June 1990 and attacked police stations in the northern and eastern provinces of Sri Lanka. Many police officers, Tamils

for the most part, had been abducted and executed by the LTTE, which had, moreover, blatantly disregarded two cease-fires that it had concluded with the Government. The LTTE's actions would inevitably exacerbate the problems of drug trafficking and smuggling it needed to finance its military operations. Furthermore, its activities were directed not only against the security forces but against innocent civilians of all communities. Thus, members of the LTTE had massacred hundreds of Muslim devotees who had gathered for their evening prayers in two mosques in an eastern province of the country. Those various acts were aimed at expelling members of all other communities from the areas where the LTTE operated.

4. All the efforts made by the Sri Lankan Government over the last year were aimed at strengthening unity within diversity, as clearly described in the report on the protection of minorities (E/CN.4/Sub.2/1990/46), but the LTTE's rejection of the process thus initiated was a rejection of pluralism, an essential component of democratic coexistence. The LTTE had rejected that idea not only as a national concept but even within its own community by eliminating the leaders and cadres of all rival Tamil parties and groups. All the democratic forces, including the Tamil political parties, had condemned that course of action, and the European Community had recently deplored the refusal of the LTTE to continue negotiations and its decision to renew fighting in the north and east of the country. The existing conflict in those regions was not between any particular communities or against the Tamil community, but against terrorism. The majority of the Tamil people and all Tamil parties shared the opinion that the only way forward was a political one giving effect to devolved powers through free and fair elections and resolving any remaining issues through compromise and consensus among all communities.

5. The Sri Lankan Government was willing to continue peaceful negotiations and hoped that the LTTE would lay down its arms and enter the democratic political process. In the meantime, the Government would, with the help of the ICRC and a number of other national and international non-governmental organizations, endeavour to minimize the hardships of the civilian population and ensure the provision of essential needs, in particular by dispatching food, medicine and other essential supplies to the disturbed areas. Civilian Information Centres had been set up in the affected areas to help civilians locate relatives who had either been abducted by the LTTE terrorists or detained by the security forces.

6. The Government and people of Sri Lanka continued to believe that consultation and consensus were the only way to safeguard democracy. A multi-party consensus had emerged that such a process should be pursued to its end, despite the terrorist elements militating against it. The Government would spare no effort to clarify violations of human rights and bring the offenders to justice. It valued the assistance and support it received nationally and internationally for the various initiatives it was taking to find solutions to the many problems Sri Lanka was facing.

7. Mr. ALFONSO MARTINEZ said he had been delighted by decision 1989/104 taken by the Sub-Commission at its previous session, to establish a sessional working group to prepare an analysis of the suggestions made to enable it better to examine agenda item 6. The Sub-Commission's approach when examining questions under that item appeared to be somewhat limited, in that most of the decisions and resolutions it adopted dealt with certain rights recognized in

the Universal Declaration or the International Covenants on Human Rights, which were generally civil and political rights, but very seldom with a basic problem that might have serious consequences for the future exercise of all human rights, namely the world economic and social situation by the year 2000. In addition, most of the draft resolutions under item 6 dealt with situations noted in countries of the third world or the South, which gave the impression that human rights violations occurred only in those countries and that the situation was perfect elsewhere. Nothing was ever said, for example, of the racism in the developed countries of North America and Western Europe or of the fate of migrant workers and indigenous populations in those countries. The Sub-Commission should therefore reflect on how it might approach all those questions within the framework of agenda item 6, and thus it was essential for the Working Group established for that purpose to continue its activities.

8. Regarding the non-governmental organizations, although their contribution to the Sub-Commission's work was generally valuable, they should nevertheless not lose sight of how far they could go when speaking before the Sub-Commission. He appealed to them to be prudent and reasonable, for the errors of some might jeopardize the participation of all non-governmental organizations in the Sub-Commission's discussions.

9. An analysis of certain specific situations would inevitably be selective, if only for practical reasons. Concerning Guatemala and El Salvador, for example, it was obvious that the Sub-Commission must continue to monitor the situation in both those countries, where, despite some progress, serious problems persisted. It must, while remaining vigilant, encourage and support the negotiation process under way, in particular in Guatemala, with a view to reaching a negotiated solution to the conflict. There were two other general questions which also warranted the Sub-Commission's continued attention. They were, first, the inability of certain peoples, such as the Palestinian people, the indigenous populations in South Africa and the populations of Puerto Rico and Northern Ireland, to exercise their right to self-determination, and, second, the consequences for human rights, in particular the right to life, of the use of force in international relations and of the foreign military occupation of sovereign States or a portion of their territory. The Sub-Commission must condemn all such acts, wherever they occurred and whoever was responsible for them, and it must not do so selectively.

10. He had been among the members of the Sub-Commission who had visited Iraq at the invitation of the Iraqi Human Rights Association. He would like to make it clear that he was opposed to any attempt to limit an expert's independence or right to accept or refuse an invitation to travel to any country whatsoever and that therefore, if a formal proposal was submitted to that effect, he would request the application of rule 54 of the rules of procedure.

11. Mr. MERILLS said that the numerous allegations of human rights violations, often well-founded, that the Sub-Commission had heard during its discussions on agenda item 6 did not mean that progress on human rights was impossible. It was not only a possibility but also a reality. Namibia was now independent and the countries of Eastern Europe were in the process of developing democratic institutions. Nelson Mandela had finally been released and the situation was progressing in South Africa, although much remained to

be done and there should be no premature rejoicing. The transition from a system in which individual rights were routinely violated to a system in which those rights were fully guaranteed and respected was never likely to be a painless one, but the beginning of a serious political dialogue in South Africa and the application of the Eastern European States to join the Council of Europe were promising signs. Although it was not the Sub-Commission's task under agenda item 6 to review progress in human rights, it was justified in taking note of positive changes, if only by way of encouragement to continue the good work.

12. However, he deplored the fact that during discussions on human rights violations some participants were indulging in abusive language against certain countries. Thus, Israel's policy in the occupied territories had been compared with that of the Nazi régime, and some speakers had even gone so far as to imply that the State of Israel might be responsible for the murders committed by a deranged individual. He did not believe the cause of human rights was promoted by such an attitude. It was true that certain countries were open to criticism, but that did not mean there should be irrelevant comparisons or that requirements should be imposed on one State which would not be applied to other States. For example, from the criticisms by one observer from a non-governmental organization of the conduct of the Canadian authorities in their dispute with the Mohawk Indians, it might be thought that the Canadian Government completely disregarded human rights. The fact that Canada was a party to the International Covenant on Civil and Political Rights and had recognized the competence of the Human Rights Committee to receive and consider communications submitted by individuals in its jurisdiction or on their behalf did not, of course, mean that Canada was free of error. It did mean, however, that in keeping with the Chairman's request to respect the dignity of States, mistakes of policy should be discussed as mistakes and not treated as the product of malice or barbarism. If the Sub-Commission squandered the language of condemnation on venial sins, it would weaken its judgements on much more serious situations, and verdicts that were too severe ran the risk of counterproductively stoking the fires of misunderstanding and hatred.

13. Mr. GUISSE, speaking on a point of order, said he wished to stress that the criticisms of Israel related to that State's obligations as an occupying Power. Under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, an occupying Power was responsible when violations of human rights were committed in the territories it controlled.

14. Mrs. WARZAZI, speaking on a point of order, pointed out that the United Kingdom expert, Mrs. Palley, and her alternate, Mr. Merills, had already made three statements under agenda item 6. She reminded members that an alternate should not take the floor when the member he was supposed to be replacing was present. In addition, those three statements revealed divergent points of view that might cause confusion.

15. Mrs. DAES, speaking on a point of order, asked the Chairman to explain the exact role of alternates.

16. The CHAIRMAN said that, since Mr. Merrils had asked for the floor several days before, and since Mrs. Palley had told him that she intended to be absent, he had granted that request. He reminded the members that, since

there were no precise rules on the matter, they had agreed that a member or his alternate should speak only once on each agenda item. If Mr. Merills' statement was a departure from the established rule, in the future members should keep more strictly to the agreement they had reached.

17. Mr. EIDE endorsed the criticisms made of certain non-governmental organizations but said he would like to make some clarifications. Referring to the statements of Mrs. Warzazi and Mr. Alfonso Martínez, he said that, in his own view, the role of the non-governmental organizations was the same when the Sub-Commission was considering a thematic issue as when it was discussing violations committed throughout the world. With regard to agenda item 6, it was the duty of the non-governmental organizations to point out to the Sub-Commission any cases of arbitrary detention, illegal arrest or extra-judicial execution that came to their attention. Certain organizations, such as Amnesty International, adhered closely to the terms of their mandate, however narrow. Others, however, as Mr. van Boven had pointed out, had close ties with opposition groups for which they acted as mouthpieces in international bodies. It might be wondered whether such organizations were equally willing to attest to the violations that those opposition groups might have committed. He therefore appealed to the non-governmental organizations to show more consistency by denouncing not only the abuses of the public authorities but all violations, whoever the culprits might be.

18. In view of the worsening situation in the Gulf and the threat of an increase in violence, he asked the Chairman if the Sub-Commission might consider appealing to the Iraqi Government to authorize foreign nationals to leave the country and make the necessary transport facilities available to them. Other members had argued that the Sub-Commission should make an appeal to ensure that foodstuffs and medicine reached Iraq, but in his opinion it was more urgent to free the persons being held there by force. However, if there was any opposition to his proposal, he would not insist on it.

19. Mrs. KSENTINI pointed out that Mr. Eide's proposal had already been discussed. If the Sub-Commission were to make an appeal, that appeal should take account of all the problems at issue. In her view, it was extremely urgent to ensure the dispatch of medicine, for that was a matter of preserving the right to life which came directly within the purview of agenda item 6. She therefore proposed that the Sub-Commission should make an appeal which might have the following wording: "In the name of respect for human rights and humanitarian law, the Sub-Commission makes a heartfelt appeal to all those who have taken sanctions against Iraq to refrain from any measure that might hinder the dispatch of basic foodstuffs and medicine to that country". She noted that that proposal was in keeping with the letter and spirit of Security Council resolution 661 (1990).

20. The CHAIRMAN pointed out that no such appeal could be made until the members had reached a consensus on the subject. He noted, however, that a draft resolution to that effect might be prepared under one of the agenda items, to be considered at the appropriate time.

21. Mr. EIDE withdrew his proposal in view of the objections it had raised.

22. Mrs. WARZAZI requested the Chairman to ask the Under-Secretary-General for Human Rights to make available to the members a room in which they might meet privately to discuss sensitive issues.

23. Mrs. FIRDAUS (Observer for Bangladesh), making a statement equivalent to the right of reply, said she would like to rectify some erroneous information given in the statement by the representative of the International Fellowship for Reconciliation concerning the Chittagong Hill Tracts. She noted that the Sub-Commission had expressed its satisfaction to the Government of Bangladesh for the legislative provisions it had enacted to provide for the self-management of the tribal populations of that region. Since July 1989, the District Councils elected by the tribal peoples had enjoyed not only the right to transfer land but also the right to form a police force. In addition, the Government had recently established a new ministry, the Ministry of Special Affairs, responsible for promoting the welfare of the people of the hill districts, including the tribal population of the Chittagong Hill Tracts. That ministry was under the authority of the Vice-President himself, which was a demonstration of the Government's determination to improve the welfare of the hill people.

24. False propaganda by terrorist elements had induced some members of those tribes to leave their land and cross the frontier into India. At one point the total number of such persons had stood at 29,920. Once those persons had realized that they had been misled, they had decided to go back to Bangladesh. Nearly 20,000 had already returned, and more were returning every day. Negotiations between the Governments of Bangladesh and India were continuing in order to facilitate the return of the remaining displaced persons. The return of the displaced persons would already be complete if there had not been threats and violent attacks by the terrorist elements on their way back. It was regrettable that, when the tribal people of the Chittagong Hill Tracts had full autonomy and the Government was endeavouring improve their living conditions, some were continuing to spread incorrect information.

25. Mrs. MENJIVAR (Observer for El Salvador), making a statement equivalent to the right of reply, protested against certain allegations made against her country by the representative of the International Indian Treaty Council. The representative had referred to certain situations where human rights had allegedly been violated. However, the relevant investigations had established that the events in question had involved ordinary offences or events not entailing the responsibility of the Salvadorian authorities.

26. On another matter, the World University Service had failed to mention that, until 11 November 1989, the date of the brutal offensive of the Frente Farabundo Martí para la Liberación Nacional (FMLN) against the city of San Salvador, that group had had its headquarters on the university campus, where it had set up its urban commandos. The commandos had organized demonstrations in the streets of San Salvador, causing damage to public and private property. The sole purpose of the army's occupation of the university had been to restore that institution to its original function. Courses had now resumed in a newly-found atmosphere of calm. However, she wished to thank the World University Service for acknowledging the efforts made by President Alfredo Cristiani to promote dialogue despite repented attacks by the FMLN, whose latest target had been the President's home. Such attacks seriously jeopardized efforts to arrive at a fair and lasting solution.

27. Regarding the tragic assassination of some Jesuits, she stressed that her Government was doing everything possible to establish the circumstances and

punish the culprits. On 21 August 1990, moreover, the President had met representatives of the Army High Command, the Supreme Court and the judge in the case to take stock of the situation.

28. Finally, she expressed the hope that a United Nations mission would visit her country as soon as possible.

29. Mr. MARKIDES (Observer for Cyprus), making a statement equivalent to the right of reply, noted that the observer for Turkey had chosen to ignore completely the fact that in 1974 that observer's country had invaded Cyprus in breach of international law and that it still had nearly 40 per cent of Cyprus territory under its military occupation. The observer had referred to "two peoples" in Cyprus, but in fact the people of Cyprus was one, composed of the Greek Cypriot community of 82 per cent and the Turkish Cypriot community of 18 per cent, which until the invasion had been living intermingled with the Greek Cypriots. The right to self-determination belonged to the people of Cyprus as a whole, and it was precisely that right that had been violated by the Turkish invasion and occupation and the expulsion of 80 per cent of the population from the occupied territories. The division of Cypriot territory by Turkey had been condemned in very strong and clear terms by the Security Council in resolutions 541 (1983), 550 (1984) and 649 (1990).

30. Concerning the Turkish propaganda about the situation of the Turkish Cypriots before 1984, which had been answered time and again, he reminded the observer for Turkey that the implementation mechanisms provided by the European Convention on Human Rights were open to Turkey and that it could submit whatever complaints it might have to the appropriate judicial organs. The Minister for Foreign Affairs of the Republic of Cyprus had challenged Turkey to accept the compulsory jurisdiction of the International Court of Justice. He had even invited Turkey to make a joint application for an advisory opinion from the Court, but there had been no response to date.

31. In conclusion, he asked the observer for Turkey whether his country accepted Security Council resolution 649 (1990) in full, whether it was ready to co-operate with the Secretary-General to organize talks that could lead to a solution on the basis of the high-level agreements and whether it was prepared to withdraw its references to separate self-determination and to "two peoples" in Cyprus. Finally, rather than arbitrarily obstruct the entry of Cyprus into the European Economic Community, which would benefit the entire people of Cyprus, Turkey would do better to promote its own accession to the Community by first resolving the Cyprus problem.

32. Mr. IZHAR (Observer for Indonesia), making a statement equivalent to the right of reply, noted that a number of non-governmental organizations and the observer for Portugal had referred to the situation in Indonesia. However, the claims that violations of human rights in East Timor stemmed from the denial of self-determination to the population of that Territory were not new. In fact, the process of decolonization had been disrupted when the colonial Power had abandoned the Territory in chaos, in the midst of a civil war of its own making. Indonesia had worked to smooth the way towards decolonization by helping the majority to decide what was best for it. The decision of the overwhelming majority to integrate with Indonesia had therefore been final.

33. In that connection, an appeal had been made by Mgr. Belo in January 1989 to the Secretary-General of the United Nations. It should not be forgotten, however, that rapid changes had taken place at the end of 1989, and that since then Mgr. Belo had adopted a more placatory approach. With regard to the allegations that Indonesia was exploiting East Timor economically, the facts spoke for themselves. Whereas, in 400 years of colonization, only 70 primary schools, 1 junior high school and 1 high school had been set up, East Timor now had a polytechnic and an engineering school, a university, dozens of secondary education establishments and hundreds of primary schools. The study by the Gajah Mada University had been referred to out of context. It had been undertaken to find ways and means of improving socio-economic conditions in East Timor in general and in the rural areas in particular. The study made absolutely no reference to violations of human rights, nor did it conclude that integration would not solve the problem of decolonization. References had also been made to cases or situations that had allegedly occurred in various parts of Indonesia. Since those references had been unsubstantiated, he would not reply to them.

34. His Government would continue its policy of co-operating with the United Nations Centre for Human Rights and with the Sub-Commission, including its special rapporteurs and working groups, by responding to communications concerning Indonesia. The members of the Sub-Commission were certainly aware that, at their most recent sessions, neither the Commission on Human Rights nor the Working Group on Communications had taken any action on the so-called question of East Timor.

35. Mr. ISSE (Observer for Somalia), making a statment equivalent to the right of reply, said that the observer for the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD) had spoken of human rights violations in Somalia without offering any proof in support of his statements; everything the observer had said revealed his lack of understanding of the situation in Somalia. The same day, the Secretary-General of the International Commission of Jurists had stated that the Somali army was continuing to carry out extra-judicial executions. That was also an unacceptable and baseless generalization. His country had shown its respect for human rights in several ways; in particular, it had recently given detailed replies to questions from the Centre for Human Rights. In addition, it had taken a number of positive measures, for example by deciding to liberalize economic policy, to release political prisoners and to invite Amnesty International to visit the country. It had also ratified international human rights instruments. Allegations made against Governments should be verified if the work of the Sub-Commission was to attain its objectives.

36. Mr. DEMIRALP (Observer for Turkey), making a statement equivalent to the right of reply, said that his country wished neither to aggravate the situation in Cyprus nor to infringe Security Council resolution 649 (1990). It should be stressed, however, that the Greek Cypriots, relying on their numerical strength, wished to leave open the possibility of enosis, and to turn their country into a Greek island in which the smaller Turkish Cypriot community would only be tolerated as a minority. At a time when the Turkish Cypriots welcomed the Security Council resolution, which they considered to represent progress towards a solution, the Greek Cypriots, for their part, had chosen to hinder that progress by unilaterally submitting a request for

accession by Cyprus to the European Economic Community. Yet Security Council resolution 649 (1990) requested the two parties to negotiate on an equal footing to establish a federation that would be bi-communal and bi-zonal. That meant that decisions concerning the island must be taken in concert by the two communities on an equal basis and that the Greek Cypriots were not entitled to decide the island's future on their own, for example by making a unilateral request to join the European Economic Community. Strategies designed to make the Greek Cypriots the sole masters of the island had not been successful and never would be.

37. Mr. DAYAL (Observer for India), making a statement equivalent to the right of reply, said that the observer for Bangladesh had provided figures relating to the Chakma refugees from the Chittagong Hill Tracts that were altogether inaccurate. The figure of 29,920 refugees which she had mentioned had in fact been based on a list given by the Government of India and verified by the authorities in Bangladesh. However, the Government of India had provided further lists, but the Government of Bangladesh, for reasons best known to itself, had not taken them into account. While it was true that some refugees had returned to Bangladesh, at the same time fresh influxes of refugees from the Chittagong Hill Tracts into India had also taken place. The figures quoted by the observer for Bangladesh were therefore incorrect.

38. Mr. COSTA LOBO (Observer for Portugal), making a statement equivalent to the right of reply, noted that his country had been accused of responsibility for the events that had occurred in East Timor in 1975. He referred the members of the Sub-Commission to the unanimous resolution adopted by the Security Council on 22 December 1975, deploring the intervention of the armed forces of Indonesia in East Timor and calling upon the Government of Indonesia to withdraw without delay all its forces from the territory. Concerning the assertion that the overwhelming majority of the population had been in favour of integration with Indonesia, he recalled that that decision had been taken by an assembly of 37 persons and that that so-called act of self-determination had been explicitly rejected by the General Assembly.

39. Mr. MARKIDES (Observer for Cyprus), making a second statement equivalent to the right of reply, said that the myth of enosis to which the observer for Turkey had referred was nothing more than an attempt to dissimulate Turkey's flagrant violations of human rights in Cyprus. The European Commission of Human Rights of the Council of Europe, which had studied the question, had concluded that Turkey had responsibility in that connection.

40. As for the illogical argument that Cyprus's application to join the EEC would make dialogue between the two communities impossible, he said that in fact, what Turkey was refusing to see was that it was blocking dialogue by adopting measures such as abolishing passports for travel between Turkey and the Turkish part of Cyprus, which was a further step towards annexation. On the other hand, Cyprus's request to join the EEC was not at all at variance with Security Council resolution 649 (1990) and was the sovereign right of the Cypriot Government. In the interest of the Cypriot population and in its own interest, Turkey must accept the realities of a new era. It must change its policy and bring it into line with the principles and rules of international law and respect Cyprus's independent sovereignty, territorial integrity and unity and the human rights of all its inhabitants.

41. Mrs. FIRDAUS (Observer for Bangladesh), making a second statement equivalent to the right of reply, said that, of the 29,920 Bangladeshis who had taken refuge in India, nearly 20,000 had since returned to Bangladesh. Those figures, taken from a list supplied by the indian Government itself, had been verified by the authorities of both countries.

42. Mr. DAYAL (Observer for India), making a second statement equivalent to the right of reply, acknowledged that the figure quoted by the observer for Bangladesh did appear on a list drawn up by the Indian Government, but stressed the fact that the Indian Government had subsequently transmitted other lists that had not been taken into account by the Bangladesh authorities.

43. Mr. EIDE, speaking on a point of order, said that, when he had offered to withdraw his proposal concerning an appeal to Iraq, he had simply meant that he would not insist on the proposal if there were no consensus. However, if a consensus could be reached after all, he would again ask for the appeal to be made. Moreover, his proposal involved a question of principle, and there was no reason to withdraw it. He therefore suggested that his proposal should appear in the resolution on violations of human rights in Iraq, since there had already been a violation of the right of foreign nationals to leave the country, and that the resolution on economic and social rights should include the proposal on the need to make sure that the exception to the embargo ordered by the Security Council for medicine and foodstuffs should be applied properly and generously. Both those issues involved important humanitarian principles, but the first was extremely urgent and referred to violations that were already occurring, and should therefore be dealt with immediately, whereas the second involved a possibility that should be dealt with on a preventive basis but was not as urgent.

44. The CHAIRMAN said that the general debate on agenda item 6 was concluded.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS OF THE SUB-COMMISSION (continued)

Proposal by Mr. Joinet

45. Mr. JOINET indicated that the following was the revised text of his proposal:

> "Concerning voting under agenda item 6 on draft resolutions relating to 'sensitive issues', I formally request, under rule 78 of the rules of procedure - which requires that this be done at least 24 hours in advance - that the Sub-Commission should temporarily suspend the application of rule 59 of the rules of procedure for the explicit purpose of strengthening experts' independence, bearing in mind the sensitivity of the questions concerned. The suspension would, however, be limited to the length of time needed for the vote on the draft resolutions under agenda item 6 at the current session."

46. The proposal, the sole purpose of which was to strengthen the independence of experts in order to allow the Sub-Commission better to perform its task, was in no way directed against Governments or non-governmental organizations. While he was convinced that discussions with various interest groups were appropriate and even essential as a means of information, he also

thought that when such discussions turned into pressure, they could not be tolerated for they undermined the experts' independence. It had been the General Assembly's will that experts should be independent, first of all because it had been decided that the experts would be elected by the Members of the United Nations and not appointed by their countries of origin, and secondly because the alternates would also be elected instead of being chosen by the incumbents. Finally, the International Court of Justice had decided in the Mazilu case that experts should enjoy privileges and immunities, as representatives of the United Nations entrusted with specific tasks by the Organization. The question arose whether the experts should consider voting on certain issues by secret ballot on a permanent basis. However, for the time being he would simply request that the Sub-Commission should proceed as it had the previous year pending a final decision in that connection, i.e. a vote by secret ballot on the questions under agenda item 6 that it considered "sensitive".

47. Mr. SADI, speaking on a point of order, formally proposed that the general debate on the question should be suspended and that Mr. Joinet's proposal should be put to the vote immediately.

48. Mr. ALFONSO MARTINEZ asked Mr. Sadi not to insist on his proposal, for he did not think that suspending the discussion would save more time than allowing the experts to make comments and ask questions on such an important proposal.

49. Mrs. PALLEY recalled that she had circulated a text (E/CN.4/Sub.2/1990/51) to the members of the Sub-Commission in which she expressed an opinion which, if accepted, would obviate the need to submit a draft resolution or decision on that point. She believed that the Sub-Commission had the possibility of interpreting rule 59 of the rules of procedure and deciding to vote by secret ballot if it so wished, without referring to rule 78.

50. Mr. ALFONSO MARTINEZ said that, despite the changes in the second version of the text proposed by Mr. Joinet, he would vote against it since it still referred to "sensitive issues", which established a precedent by which the Sub-Commission would very likely have to suspend the application of rule 59 of the rules of procedure every year, thereby turning the suspension into a nearly permanent measure, when only the Economic and Social Council was empowered to take such a decision.

51. Mrs. KSENTINI pointed out that the Sub-Commission had been grappling with the same problems for two years. In view of the diverging opinions expressed, she suggested referring the matter to the Econcomic and Social Council. In her view, suspending the application of rule 59 was not the best method, and she was prepared to accept Mr. Joinet's proposal only if he would agree to state that he making that request for the last time.

52. Mr. JOINET explained that the very purpose of draft resolution E/CN.4/Sub.2/1990/L.4 was to do away with suspending the application of rule 59, which might become too systematic and too frequent, as Mr. Alfonso Martínez and Mrs. Ksentini, in particular, feared. However, he was not prepared to amend his proposal in the way that Mrs. Ksentini had requested.

53. A vote was taken by roll-call on Mr. Joinet's proposal.

54. Mr. Yimer, having been drawn by lot the Chairman, was called upon to vote first.

In favour: Mrs. Bautista, Mr. van Boven, Mr. Chernichenko, Mrs. Daes, Mr. Despouy, Mr. Eide, Mr. Guissé, Mr. Hatano, Mr. Heller, Mr. Joinet, Mr. Maxim, Mrs. Palley, Mr. Saboia, Mr. Sadi, Mr. Suescún, Mr. Treat, Mrs. Warzazi

Against: Mr. Alfonso Martínez, Mr. Tian, Mr. Yimer

Abstaining: Mr. Ilkahanaf, Mr. Khalil, Mrs. Mbonu, Mr. Sachar

55. Mr. Joinet's proposal was adopted by 17 votes to 3, with 4 abstentions.

56. Mr. ALFONSO MARTINEZ, speaking in explanation of vote, said that the Sub-Commission had gone one step further towards the complete violation of the principles that should be governing its activities. The decision made the vote on the two drafts pending on that issue all the more important. He regretted that Mr. Joinet had refused to amend his proposal in the way that had been requested.

57. Mr. TIAN Jin, speaking in explanation of vote, said that the independence of experts was a matter of principle that did not have to be guaranteed by a vote by secret ballot.

58. Mrs. DAES, speaking in explanation of vote, noted that she had always been in favour of voting by secret ballot, since experience had shown that some experts had lost their posts because of the way they had voted.

59. Mr. van BOVEN, speaking in explanation of vote, said that, while he approved of Mr. Joinet's proposal, his own position was close to Mrs. Ksentini's: the Sub-Commission could not go on constantly invoking rule 78. He had voted for the proposal in the light of draft resolution E/CN.4/Sub.2/1990/L.4, in which the Sub-Commission, through the Commission on Human Rights, requested the Economic and Social Council to settle the question of the secret ballot explicitly and permanently.

60. Mr. DESPOUY, speaking in explanation of vote, said that Mrs. Daes had brought up some relevant considerations concerning the possible consequences of a vote for an expert's career. A majority of members of the Sub-Commission had sought a way to strengthen their independence, taking full responsibility and after serious exchanges of views.

61. Mr. GUISSE, speaking in explanation of vote, said that while some members could explain why they rejected secret ballots with complete peace of mind, for others the secret ballot was a stronger guarantee of independence that enabled them better to serve the cause of human rights.

62. Mr. ILKAHANAF, speaking in explanation of vote, said that his independence did not depend on the type of vote taken.

63. Mr. SACHAR suggested that the Sub-Commission should give itself the possibility, not of referring to rule 78 of the rules of procedure, but of voting by secret ballot every time it saw fit and not only on questions that arose under agenda item 6. In that connection, he pointed out that that agenda item was considered at public meetings.

64. Mrs. PALLEY, speaking in explanation of vote, said that she had supported Mr. Joinet's proposal because it complemented her own. In any event, the Sub-Commission was entitled to decide to vote by secret ballot without suspending the application of one of its rules of procedure and without making an amendment. It was a good idea, however, to refer to rule 78 to suspend the application of rule 59, for if the Sub-Commission wished to ask the Economic and Social Council to amend certain provisions, such a course would enable it to provide the Council with details of the results, whether positive or negative, of that initiative.

65. Mr. YIMER, speaking in explanation of vote, said that he had voted against Mr. Joinet's proposal because he found it unacceptable from the legal point of view to refer to rule 78, which had been drafted for a completely different purpose.

66. Mr. CHERNICHENKO, speaking in explanation of vote, said that he had supported Mr. Joinet's proposal because, although he himself was quite capable of withstanding very strong pressure, he had noted that many experts wished to have additional guarantees of independence.

Draft resolution E/CN.4/Sub.2/1990/L.4 and amendments thereto (E/CN.4/Sub.2/1990/L.18)

67. Mr. van BOVEN, also speaking on behalf of Mr. Treat, co-sponsor of draft resolution E/CN.4/Sub.2/1990/L.4, agreed to the changes proposed in document E/CN.4/Sub.2/1990/L.18, in particular the replacement of the term "amend" by "interpret" in paragraph 1 of the draft resolution recommended to the Commission for adoption.

68. Mrs. WARZAZI, referring to the proposed amendment to the end of the text, suggested that the words "pertaining to allegations concerning violations of human rights" should be replaced by "... pertaining to allegations of violations of human rights ...".

The meeting rose at 1.05 p.m.